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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/665,260	09/22/2003	Kiichiro Ito	P21-155424M/YS	7125
21254	7590	07/27/2005	EXAMINER	
MCGINN & GIBB, PLLC 8321 OLD COURTHOUSE ROAD SUITE 200 VIENNA, VA 22182-3817			JACKSON, ANDRE L	
			ART UNIT	PAPER NUMBER
			3677	

DATE MAILED: 07/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/665,260

Applicant(s)

ITO, KIICHIRO

Examiner

Andre' L. Jackson

Art Unit

3677

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 April 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

Newly submitted claims 7-9 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: Claims 7-9 are drawn to a method of making classified in class 425.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 7-9 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Allowable Subject Matter

The indicated allowability of claims 2, 5 and 6 are withdrawn in view of the newly discovered reference(s) #6,578,833 to Arisaka. Rejections based on the newly cited reference(s) follows below.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 2, 5 and 6 are rejected under 35 U.S.C. 102(e) as being anticipated by USPN 6,578,833 to Arisaka. Arisaka discloses a string type damper comprising;

a cylinder (1) formed in a tubular shape, including a guide cap (6) defining a guide hole (12) and attached at one end portion thereof; a piston (2), which moves in the cylinder; a helical spring (3) for biasing the piston toward the other end portion of the cylinder; and a string member (4) hooked to the piston within the cylinder and guided from inside of the cylinder to outside thereof through the guide hole, wherein; the piston, end cap and string member are integrally formed; the string member branches into a plurality of portions and hooks/connects with the piston at a base end portion (14) thereof; and the plurality of portions come together at a forward end portion (4b) of the string member.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 3 is rejected under 35 U.S.C. 102(b) as being anticipated by USPN 5,333,845 to Seiichi. Seiichi discloses a damper device comprising;

a cylinder (1) formed in a tubular shape defining a guide hole at one end portion thereof; a piston (2), which moves in the cylinder; a helical spring (4) for biasing the piston toward the other end portion of the cylinder; and a string member (S) guided from inside of the cylinder to outside thereof through the guide hole, wherein; the piston and the string member are integrally formed; and the string member has a belt shape; the guide hole of the cylinder has a flat opening (Fig. 1) and a smooth arcuate face (6a) continuing to a wide width edge of the opening; and the string member having the belt shape is bent and guided along the arcuate face of the guide hole (Fig. 1).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over USPN 6,269,919 to Bivens et al. Bivens et al discloses a strand damper comprising;

a cylinder (20) formed in a tubular shape, defining a guide hole (54) at one end portion thereof; a piston (12), which moves in the cylinder; a helical spring (44) for biasing the piston toward the other end portion of the cylinder; and a string member (24) guided from inside of the cylinder to outside thereof through the guide hole, wherein; the piston and string member are integrally formed; and a reinforcing plate (disposed **between disc 16 and first end 23** of string member) attached to the piston as a mount for receiving the helical spring (Fig. 3). However, Bivens et al fails to disclose that the reinforcing plate is a different material than that of the piston and string member as claimed. It would have been obvious to one having ordinary skill in the art at the time of applicant's invention to modify the reinforcing plate to be constructed of a highly resilient material, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for its intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

Further, constructing a reinforcing plate of a material more rigid than the piston and string member afford increased rigidity to the overall piston while maintaining high impact

Art Unit: 3677

strength and support when a spring constantly abuts and contacts an engagement surface of the reinforcing plate.

Moreover, applicant has not stated that the choice of material or the rigidity of that material solves any relevant problem outside of what is known and considered within the level of ordinary skill in the art or is for a particular purpose and the reinforcing plate of Bivens et al operates equally as well.

Response to Applicant's Arguments

Applicant's arguments with respect to claims 1-6 have been considered but are moot in view of the new ground(s) of rejection. Accordingly, #6,578,833 to Arisaka has been discovered and used to meet the limitations claimed. Further, #5,333,845 to Seiichi has been applied to meet the limitations as claimed. Lastly, Bivens et al cited in the previous Action has been more clearly defined and presented as an obvious-type rejection. Thus, claims 1-6 are found to be unpatentable over the prior art made of record.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andre' L. Jackson whose telephone number is (571) 272-7067. The examiner can normally be reached on Mon. - Fri. (9:30 am - 6 pm).

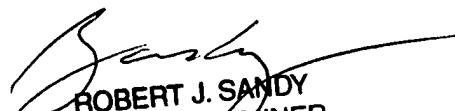
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Judy J. Swann can be reached on (571) 272-7075. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3677

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

André L. Jackson
Patent Examiner
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ALJ


ROBERT J. SANDY
PRIMARY EXAMINER